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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHRISTOPHER SENN; JASON
BEWLEY; JERED FULLEN,
DISABILITY RIGHTS WASHINGTON,
and JEWELS HELPING HANDS,

Plaintiffs,

vs.

CITY OF SPOKANE, a municipal
corporation; SPOKANE COUNTY, a
municipal corporation; OZZIE
KNEZOVICH, in his official capacity as
Spokane County Sheriff; CRAIG MEIDL,
in his official capacity as Spokane Police
Chief;

Defendants.

NO. 2:22-cv-254-SAB

PLAINTIFFS' EX PARTE
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO
SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE

PLAINTIFFS' APPLICATION FOR TEMPORARY
RESTRAINING ORDER: 1

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1 Pursuant to Federal Rule of Civil Procedure 65, Plaintiffs ask the Court to
2 issue an *ex parte* temporary restraining order to preserve the status quo until the
3 Court rules on Plaintiffs' motion for preliminary injunction and prevent irreparable
4 harm to Plaintiffs and the exceptionally vulnerable residents of Camp Hope. This
5 application is made on the grounds set forth in the accompanying Amended
6 Motion for Preliminary Injunction filed herewith; all pleadings and papers filed in
7 this action; the argument of counsel; and further evidence as the Court may
8 consider at or before a hearing regarding this Application or the hearing regarding
9 the Order to Show Cause and preliminary injunction requested herein.

10 Despite the filing of the present action and a pending motion for preliminary
11 injunction, Defendants have recently taken active and vigorous steps to initiate an
12 immediate sweep of all residents of Camp Hope, to include a massive police and
13 sheriff presence and the distribution of leaflets telling residents that a sweep is
14 imminent. Defendants have not provided a date on which they intend to sweep,
15 meaning that it could occur at any time and prior to any judicial review of the
16 constitutionality of the sweep. Plaintiffs thus have no remedy available at law other
17 than this request for a TRO to prevent the violation of constitutional rights, loss of
18 personal property, and significant harm to residents, especially those with
19 disabilities.

20 Plaintiffs incorporate the facts and evidence already presented in their initial
21 Motion for Preliminary Injunction (ECF No 4) and evidence filed therewith, their
22 Amended Complaint (ECF No. 14), and the Amended Motion for Preliminary

1 Injunction filed herewith, all of which set forth the needs and rights of the residents
2 of Camp Hope and the efforts made by Defendants to remove residents from the
3 camp. In addition to the events described in these pleadings, Plaintiffs bring to the
4 Court's attention recent events occurring on December 6, 2022, that signal
5 Defendants' imminent threat to remove all residents by force.

6 On December 6, more than a dozen¹ uniformed officers from the Spokane
7 County Sheriff's Office, as well as the Spokane and Spokane Valley police
8 departments, arrived in force at Camp Hope to deliver flyers to residents. *See*
9 Appendix A; [https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-](https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-confusion-frustration-af/)
10 [closed-confusion-frustration-af/](https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-confusion-frustration-af/). The flyer states: "This Camp is to be closed." *Id.*

11 The flyers and public statements made by Defendants do not provide
12 residents of Camp Hope with a specific date on which Defendants intend to
13 forcibly remove the residents from their current homes. *Id.* Mark Gregory, public
14 information officer for the Spokane Sheriff's Office, explained that this was an
15 intentional decision, stating to the media: "We're never going to say when we're
16 going to – if we had to – go down and close the camp, because that wouldn't be
17 smart of us to do." *Id.* Mr. Gregory continued: "The camp is going to be closed,
18 but we want to do it without ever using law enforcement to move people out of the
19 camp . . . (A sweep) is not our goal, but if we have to, we will do that." *Id.*

21 ¹ Some at the camp estimated the number of officers and deputies to be as high as
22 40. *See* [https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-](https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-confusion-frustration-af/)
[closed-confusion-frustration-af/](https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-confusion-frustration-af/)

1 Plaintiffs and other residents at Camp Hope thus face imminent and
2 irreparable harm from a planned law enforcement sweep. As described in the
3 recent newspaper article cited above and further explained in the Declaration of
4 Julie Garcia (ECF No. 8), shelters in this area do not have nearly enough space to
5 house all the residents of Camp Hope, let alone all unsheltered homeless in the
6 community. *Id.* Per data collected by news reporting, there are around 150 beds
7 available throughout the entire regional shelter system, while the number of
8 homeless residents of Spokane County was estimated to be around 1,750 people in
9 2022. [https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-](https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-confusion-frustration-af/)
10 [confusion-frustration-af/](https://www.spokesman.com/stories/2022/dec/06/this-camp-is-to-be-closed-confusion-frustration-af/). A recent estimate from the Washington State
11 Department of Commerce based on services provided to homeless people, puts the
12 number of unhoused people in Spokane County much higher at more than 14,000
13 residents, or around 2.5% of all residents. *Id.*

14 Because there is inadequate shelter space, a sweep of Camp Hope will push
15 residents into other parts of the community where they will remain unsheltered and
16 exposed to the elements but without the services, security, and support they receive
17 at Camp Hope. *See, e.g.* decls. Fullen ¶ 4; Senn ¶¶ 5-7, Garcia ¶¶ 19-22 (ECF Nos.
18 5-8). A sweep would especially harm individuals with disabilities who are
19 sometimes not permitted to enter congregate care facilities or cannot get their
20 essential needs met in these facilities. *See, e.g.*, Decl. Garcia ¶¶ 19-23 (ECF No. 8).
21 Disabled residents would be forced to sleep outside in the winter or in an
22

1 institution rather than in their current protective community with integrated
2 services, warming centers, and social support. *Id.*

3 Undersigned Counsel for Plaintiffs, Jeffry Finer, hereby certifies, pursuant to
4 FRCP 65(b)(1)(B), that he has previously advised counsel for Spokane County and
5 City of Spokane of Plaintiffs' intention to seek preliminary injunctive relief, as he
6 filed and served a motion for preliminary injunctive relief on November 6, 2022.
7 ECF No. 4. Defense counsel indicated to the undersigned that there was no need
8 for an immediate hearing because there existed no immediate plans to sweep the
9 camp. However, the recent issuance of notices to residents that the camp will be
10 imminently closed and swept, with no date provided, makes clear that previous
11 indications from defense counsel regarding timing are no longer in effect and
12 immediate injunctive relief is necessary. Additional efforts to give notice to
13 Defendants should not be required because they have already had a month of
14 notice, have not responded to the initial motion for preliminary injunction, and
15 have since taken steps to indicate that the planned sweep could occur at any time.

16 TROs "preserve the status quo pending a hearing." *Hoffman v. Int'l*
17 *Longshoremen's & Warehousemen's Union, Local No. 10*, 492 F.2d 929, 933 (9th
18 Cir. 1974), *aff'd sub nom. Muniz v. Hoffman*, 422 U.S. 454 (1975). This is all
19 Plaintiffs seek here – the opportunity to stay in their homes and keep their
20 possessions, without the threat of forcible removal, while the parties and Court
21 adequately consider the merits of the constitutional and legal claims made by
22 Plaintiffs in this matter.

1 Plaintiffs should not be required to provide a bond or other security under
2 FRCP 65(c) because no costs or damages will be incurred by Defendants based on
3 the issuance of a TRO. Where there is no likelihood of harm to the party enjoined,
4 the requirement to post a bond may be dispensed with entirely. *Barahona-Gomez*
5 *v. Reno*, 167 F.3d 1228, 1237 (9th Cir. 1999).

6 Thus, Plaintiffs seek a TRO:

- 7 (a) Temporarily restraining Defendants from arresting and/or removing
8 residents of Camp Hope from their current location, or seizing their
9 property, without specific and individualized probable cause to arrest
10 a person for a criminal offense unrelated to an order given by
11 Defendants to disband, move, or otherwise leave Camp Hope;
12 (b) Temporarily restraining Defendants from conducting any helicopter
13 overflights of Camp Hope and/or from utilizing infrared imaging or
14 similar technology to surveil or record the residents of Camp Hope,
15 without first obtaining a judicial warrant for such a search.

16 DATED this 7th day of December, 2022.

17 /s/ Jeffry Finer

18 JEFFRY K. FINER, WSBA NO. 14610

19 **KSB LITIGATION, P.S.**

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DISABILITY RIGHTS WASHINGTON

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing
PLAINTIFFS' EX PARTE APPLICATION FOR TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW CAUSE WHY A PRELIMINARY
INJUNCTION SHOULD NOT ISSUE to be served via the method listed below to
the following:

<u>NAME & ADDRESS</u>	<u>Method of Delivery</u>
<u>James Bernard King on behalf of CITY OF SPOKANE</u>	<u><input checked="" type="checkbox"/> CM/ECF System</u>
<u>James Bernard King on behalf of Craig Meidl</u>	<u><input checked="" type="checkbox"/> CM/ECF System</u>
<u>F Dayle Andersen, Jr on behalf of SPOKANE COUNTY</u>	<u><input checked="" type="checkbox"/> CM/ECF System</u>
<u>F Dayle Andersen, Jr on behalf of Ozzie Kenezovich</u>	<u><input checked="" type="checkbox"/> CM/ECF System</u>

DATED this 7th day of December 2022.

/s Andrew Biviano

Appendix A

WARNING

THIS CAMP IS SET TO BE CLOSED

For shelter services and housing alternatives, including transportation, call:

Way-In Navigation Center
4320 E Trent
(509) 280-6860

Emergency Shelters

House of Charity 32 W Pacific 509 624-7821	Way-In Navigation Ctr 4320 E Trent 509 280-6860
Cannon Street Shelter 527 S Cannon St	Hope House for Women 318 S Adams
The Salvation Army Shelter for Families 222 E Indiana Avenue 509 325-6821	YWCA Shelter for Domestic Violence 509 326-2255 509 326-1190
UGM for Men 1225 E 1st Avenue 509 535-8510	Crosswalk for Teens 525 W 2nd Avenue
UGM for Women & Children 1515 E Illinois Avenue 509 535-0486	

Free Meal Sites

Go to SNAP or House of Charity for a full list of meal sites.

SNAP	
212 W 2nd Avenue	
House of Charity	
32 W Pacific	

Breakfast	
Crosswalk for Teens	Every Day 9:00 – 9:30am
Shalom Ministries	Mon – Thu 7:30 – 8:30am
House of Charity	Every Day 7:30 – 8:30am

Lunch	
Crosswalk for Teens	Every Day 12:00 – 12:30pm
House of Charity	Every Day 11:00 – 11:30am

Dinner	
Crosswalk for Teens	Every Day 6:00 – 6:30pm
Our Lady of Lourdes	Mon - Fri 4:00 – 5:00pm

Mental Health and Addiction Treatment

Compassionate Addiction Treatment 168 S Division St 509 919-3162	Frontier Behavioral Health 107 S Division Street 509 838-4651
Inland NW Behavioral Health 1018 W 6th Avenue 509 992-1888	Peak Spokane Behavioral 425 N 1st Avenue 509 867-3778
Spokane Treatment & Recovery Services 105 W 3rd Avenue 509 370-7250	Sobriety Services 509 570-7255